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15 JOHN PANDOL

16 **UNITED STATES DISTRICT COURT**
17 **CENTRAL DISTRICT OF CALIFORNIA**

18 JOHN PANDOL, individually and on
19 behalf of all others similarly situated,

20 Plaintiff,

21 v.

22 GO DADDY OPERATING
23 COMPANY, LLC, a Delaware
24 Corporation,

25 Defendant.

Case No. 2:15-cv-7794

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Violation of the Telephone Consumer
Protection Act, 47 U.S.C. § 227, *et*
seq.

1 Plaintiff John Pandol ("Plaintiff") brings this Class Action Complaint against
2 Defendant Go Daddy Operating Company, LLC ("Go Daddy"), on behalf of himself
3 and all others similarly situated, and complains and alleges upon personal knowledge
4 as to himself and his own acts and experiences, and, as to all other matters, upon
5 information and belief, including investigation conducted by his attorneys.

6 **I. NATURE OF THE ACTION**

7 1. Defendant Go Daddy is the world largest Internet domain registrar and
8 web hosting company. In effort to market its products and services, Go Daddy made
9 (or directed to be made on its behalf) calls to the wireless telephones of Plaintiff and
10 each of the members of the Class without prior express consent in violation of the
11 Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* ("TCPA").

12 2. Neither Plaintiff nor the other Class members ever consented,
13 authorized, desired or permitted Go Daddy to make calls or leave voicemail
14 messages to their wireless telephones.

15 3. By making such unauthorized calls or leaving such voicemail messages,
16 Go Daddy caused Plaintiff and each of the Class members actual harm, including the
17 aggravation and nuisance that necessarily accompanies the receipt of unsolicited
18 calls, and the monies paid to their wireless carriers for the receipt of such calls.

19 4. In order to redress these injuries, Plaintiff seeks an injunction requiring
20 Go Daddy to cease all unsolicited calling activities, an award of statutory damages to
21 the Class members under the TCPA, together with costs and reasonable attorneys'
22 fees.

23 **II. JURISDICTION AND VENUE**

24 5. This Court has subject matter jurisdiction over this action, pursuant to
25 28 U.S.C. § 1331, because it arises under the laws of the United States.

Autodialers (also known as robocalls) automatically deliver a prerecorded message to a list of telephone numbers, and thus remove the need for human representatives. These predictive dialers were developed to find better pacing (scheduling of dialing attempts) by collecting and analyzing data on the proportion of call attempts that are answered, durations of time from call initiation to answer, and durations of service. The technology was designed to minimize both the time that telemarketers must spend waiting between conversations and amount of abandoned calls experienced by consumers.¹

11. At all relevant times, Plaintiff was the subscriber of the wireless telephone number ending in 3984.

12. On or about September 3, 2013 Plaintiff received a call to his wireless telephone. Plaintiff's caller identification system listed the calling number as 1-480-505-8859.

13. Upon answering the calls or listening to the voicemail messages, a prerecorded, automated message informed Plaintiff that the caller was "Go Daddy".

14. Since Plaintiff received this first call on or about September 3, 2013, Plaintiff received, and continues to receive, calls from Go Daddy approximately every five or six months. Plaintiff estimates that he has received six calls from Go Daddy. The caller left a voicemail message each time Plaintiff did not answer a call.

15. Specifically, Plaintiff received calls from Defendant on or about January 22, 2015, and again on or about May 23, 2015.

¹ Institute for Consumer Antitrust Studies, Loyola University Chicago School of Law, The Telephone Consumer Protection Act Of 1991: Adapting Consumer Protection To Changing Technology 7 (Fall 2013) (emphasis added). The report "was made possible through a cy pres distribution from a class action involving the TCPA in the Northern District of Illinois under the supervision of Senior Judge William Hart and Magistrate Judge Morton Denlow." *Id.* at 2.

1 16. Both Go Daddy's calls and voicemail messages contained similar
2 automated voice recorded message regarding a review of an account that supposedly
3 belongs to Plaintiff (the "Account") or upcoming renewals of the Account. The
4 automated voice recorded message further asked Plaintiff to call Go Daddy back.

5 17. When Plaintiff called Go Daddy back after receiving the first call, on
6 September 3, 2013, Plaintiff spoke to a live person.

7 18. Plaintiff informed Go Daddy's representative(s) that he does not have,
8 and never had, any account or prior relationship with Go Daddy. Plaintiff also asked
9 Go Daddy's representatives to stop making calls to his wireless phone.

10 19. Nevertheless, Go Daddy continued to make (or directed to be made on
11 its behalf) calls to Plaintiff's wireless telephone.

12 20. Again, Plaintiff called Go Daddy several times in order to remove his
13 number from the call list.

14 21. Go Daddy's representative(s) told Plaintiff that the physical address
15 attached to the Account did not match the address he provided for account
16 verification. Plaintiff also attempted to verify the Account by all of his previously
17 used email addresses, but none of those were associated with the Account. Further,
18 Plaintiff never had an account with Defendant, and so couldn't provide his payment
19 information in order to verify the Account.

20 22. Plaintiff then asked Go Daddy's representative(s) to close the Account
21 opened under his name.

22 23. In order to close the Account, Go Daddy's representative(s) requested
23 Plaintiff to provide the above information to verify the Account. Plaintiff, however,
24 never opened the Account in the first place, and therefore could not provide the
25 requested verifying information.

1 without prior express consent of the called party for the purpose of
 2 reviewing customer accounts and upcoming renewals (“Class”).

3 30. Certification of Plaintiff’s claims for class-wide treatment is appropriate
 4 because Plaintiff can prove the elements of his claims on a class-wide basis using the
 5 same evidence as would be used to prove those elements in individual actions
 6 alleging the same claims.

7 31. **Numerosity – Fed. R. Civ. P. 23(a)(1).** The members of the Class are
 8 so numerous that individual joinder of all Class members is impracticable. On
 9 information and belief, there are thousands of consumers who have been damaged by
 10 Go Daddy’s wrongful conduct as alleged herein. The precise number of Class
 11 members and their addresses is presently unknown to Plaintiff, but may be
 12 ascertained from Go Daddy’s books and records. Class members may be notified of
 13 the pendency of this action by recognized, Court-approved notice dissemination
 14 methods, which may include U.S. mail, electronic mail, Internet postings, and/or
 15 published notice.

16 32. **Commonality – Fed. R. Civ. P. 23(a)(2) and 23(b)(3).** There are
 17 questions of law and fact common to the Class, which predominate over any
 18 questions affecting only individual Class members. These common questions of law
 19 and fact include, without limitation:

- 20 a. Whether Go Daddy’s conduct constitutes a violation of the TCPA;
- 21 b. Whether the equipment Go Daddy (or someone on Go Daddy’s
 22 behalf) used to make the calls in question was an automatic telephone
 23 dialing system as contemplated by the TCPA;
- 24 c. Whether Plaintiff and the Class are entitled to actual, statutory, or other
 25 forms of damages, and other monetary relief and, in what amount(s);

1 d. Whether Plaintiff and the Class are entitled to treble damages based on
2 the willfulness of Go Daddy's conduct; and

3 e. Whether Plaintiff and the Class are entitled to equitable relief, including
4 but not limited to injunctive relief and restitution.

5 33. **Typicality – Fed. R. Civ. P. 23(a)(3).** Plaintiff's claims are typical of
6 the other Class members' claims because, among other things, all Class members
7 were comparably injured through the uniform prohibited conduct described above.

8 34. **Adequacy of Representation – Fed. R. Civ. P. 23(a)(4).** Plaintiff is an
9 adequate representative of the Class because his interests do not conflict with the
10 interests of the other Class members he seeks to represent; he has retained counsel
11 competent and experienced in complex commercial and class action litigation; and
12 Plaintiff intends to prosecute this action vigorously. Plaintiff and his counsel will
13 fairly and adequately protect the interests of the Class members.

14 35. **Superiority – Fed. R. Civ. P. 23(b)(3).** A class action is superior to any
15 other available means for the fair and efficient adjudication of this controversy, and
16 no unusual difficulties are likely to be encountered in the management of this class
17 action. The damages or other financial detriment suffered by Plaintiff and the other
18 Class members are relatively small compared to the burden and expense that would
19 be required to individually litigate their claims against Go Daddy, so it would be
20 impracticable for Class members to individually seek redress for Go Daddy's
21 wrongful conduct. Even if Class members could afford individual litigation, the court
22 system could not. Individualized litigation creates a potential for inconsistent or
23 contradictory judgments, and increases the delay and expense to all parties and the
24 court system. By contrast, the class action device presents far fewer management
25 difficulties, and provides the benefits of single adjudication, economy of scale, and
26 comprehensive supervision by a single court.

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**Pro hac vice application pending*

***Counsel for Plaintiff John Pandol
and the Proposed Putative Class***